

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, *in his official
capacity as President of the United
States*, et al.,

Defendants.

17-CV-5228 (NGG) (JO)

**PLAINTIFFS' NOTICE OF MOTION
(Fed. R. Civ. P. 56 and 28 U.S.C. § 2201)**

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 56, Plaintiffs hereby move the Court for partial summary judgment with respect to their claims for relief under the Federal Vacancies Reform Act and the Homeland Security Act, 5 U.S.C. §§ 3345–3348 and 6 U.S.C. § 113. *See* Second Am. Supplemental Compl. ¶¶ 332-37 (ECF No. 271).

Plaintiffs request that the Court declare Chad Wolf's July 28, 2020 memorandum, *Reconsideration of the June 15, 2012 Memorandum Entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children"* (July 28, 2020) as ultra vires under 28 U.S.C. § 2201; declare that the Wolf memorandum was void ab initio; and order Defendants to comply with *Department of Homeland Security v. Regents of Univ. of California*, 140 S. Ct. 1891 (2020), by reinstating the Deferred Action for Childhood Arrivals program as it existed before the Department of Homeland Security rescinded it in September 2017.

In support of this motion, Plaintiffs rely on the accompanying Memorandum of Law; their Local Rule 56.1 Statement of Material Facts; the Declaration of Matthew Colangelo dated August 28, 2020; the exhibits attached to that Declaration; the pleadings and papers on file in this action; and any argument and evidence that is presented on the hearing of this motion.

DATED: August 28, 2020

Respectfully submitted,

LETITIA JAMES

Attorney General of the State of New York

By: /s/ Matthew Colangelo

Matthew Colangelo

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